

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SILICON VALLEY BANK,

Plaintiff,

vs.

JES GLOBAL CAPITAL GP III, LLC; and
ELLIOT S. SMERLING,

Defendants.

21 Civ. 2552 (JPC)

**DECLARATION OF SUSANNA M. BUERGEL IN
SUPPORT OF SILICON VALLEY BANK'S MOTION FOR AN
ORDER OF ATTACHMENT AND TEMPORARY RESTRAINING ORDER**

SUSANNA M. BUERGEL declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am a member of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel to Plaintiff Silicon Valley Bank (“SVB”) in the above-captioned action. I am a member in good standing of the bar of New York State and this Court. I submit this Declaration in support of Silicon Valley Bank’s Third Supplemental Motion for an Order of Attachment and Temporary Restraining Order.

2. SVB is proceeding by order to show cause, rather than by notice of motion, because of the urgency of the requested relief. SVB has not provided notice of its motion for an order of attachment and temporary restraining order because (i) under New York CPLR 6211, such notice is not required, and (ii) notice of this application may cause Defendants to dissipate property, assets or other funds that SVB is seeking to attach.

3. SVB has made two prior applications for an order of attachment and temporary restraining order. (Order to Show Cause, ECF No. 12; Order to Show Cause, ECF No. 27.) The prior attachment applications were directed to four particular financial institutions that SVB believed maintained property, assets or other funds associated with Defendants. SVB has made

no prior motion in this action for an order of attachment or temporary restraining order with respect to the real property and assets that are the subject of SVB's Third Supplemental Motion.

4. On March 30, 2021, pursuant to this Court's prior orders, SVB served a subpoena upon counsel (following agreement to accept service) for George Campagna. Upon information and belief, Mr. Campagna until recently served as Chief Financial Officer of Defendant JES Global Capital GP III, LLC and JES Global Capital III, L.P.

5. According to counsel for Mr. Campagna and Florida public records, Mr. Campagna was also the manager of a Florida-based entity, Canes Nineteen, LLC, which is owned and controlled by Defendant Elliot S. Smerling. According to Florida public records, Canes Nineteen, LLC, in turn, is the manager of numerous other Canes entities including, as relevant here, Canes Two, LLC, Canes Twelve, LLC, and Canes Fourteen, LLC. In responding to the subpoena, Mr. Campagna produced numerous corporate and business records for these Canes entities that, according to Mr. Campagna's counsel, were in his possession as a result of his role as manager of Canes Nineteen, LLC, and thus the various other Canes entities.

6. Attached as Exhibit 1 hereto is a true and correct copy of a Limited Liability Company Affidavit, dated September 25, 2019 and executed by Richard S. Annunziata as manager of Canes Fourteen, LLC, bearing beginning Bates GCSVB008607. The Affidavit states, *inter alia*, that Canes Fourteen, LLC "is the fee simple owner of the real property in Palm Beach County, Florida, to wit . . . 11353 Manatee Terrace, Lake Worth, FL 33449." Attached as Exhibit 2 hereto is a true and correct copy of a Warranty Deed dated June 30, 2018, retrieved on May 26, 2021 from the Official Records website maintained by the Palm Beach County Clerk, which identifies Canes Fourteen, LLC as the Grantee of the property at 11353 Manatee Terrace.

7. Attached as Exhibit 3 hereto is a true and correct copy of a Florida Residential Lease Agreement, dated April 1, 2020 and executed by Richard S. Annunziata as manager of Canes Two, LLC, bearing beginning Bates GCSVB008509. The Agreement states, *inter alia*, that Canes Two, LLC “is the fee owner of certain real property . . . having a street address of 3049 Hartridge Terrace, FL 33414.” Attached as Exhibit 4 hereto is a true and correct copy of a Warranty Deed dated February 21, 2018, retrieved on May 26, 2021 from the Official Records website maintained by the Palm Beach County Clerk, which identifies Canes Two, LLC as the Grantee of the property at 3049 Hartridge Terrace.

8. Attached as Exhibit 5 is a true and correct copy of a Certificate of Title for a 2018 Alfa Romeo vehicle, Title No. 131399933, VIN ZARFAEAV7J7584118, bearing beginning Bates GCSVB005242, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 6 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

9. Attached as Exhibit 7 is a true and correct copy of an Application for Certificate of Title for a 2021 Audi vehicle, VIN WA1CWBF14MD010921, bearing beginning Bates GCSVB008311, which identifies Canes Twelve, LLC as the owner. Attached as Exhibit 8 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle, Title No. 140552418, is active and that the vehicle has one owner.

10. Attached as Exhibit 9 is a true and correct copy of a Florida Vehicle Registration that expires in June, 2022, for a 2020 Cadillac vehicle, Title No. 138299590, VIN 1GYS4KKJ6LR274988, bearing beginning Bates GCSVB008807, which identifies Canes

Twelve, LLC as the owner. Attached as Exhibit 10 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

11. Attached as Exhibit 11 is a true and correct copy of a Florida Vehicle Registration that expired in November, 2020, for a 2020 Corvette, VIN 1G1Y83D41L5113207, bearing beginning Bates GCSVB008806, which identifies Canes Twelve, LLC as the owner. Attached as Exhibit 12 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle, Title No. 140335076, is active and that the vehicle has one owner.

12. Attached as Exhibit 13 is a true and correct copy of a Certificate of Title for a 2017 Ferrari vehicle, Title No. 125927334, VIN ZFF77XJA1H0223395, bearing beginning Bates GCSVB005232, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 14 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

13. Attached as Exhibit 15 is a true and correct copy of a Certificate of Title for a 2014 Ford vehicle, Title No. 121467098, VIN 1FTFW1R65EFC08045, bearing beginning Bates GCSVB005234, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 16 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

14. Attached as Exhibit 17 is a true and correct copy of a Certificate of Title for a 1991 Harley Davidson vehicle, Title No. 75219688, VIN 1HD1BML15MY023788, bearing beginning Bates GCSVB005228, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 18 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

15. Attached as Exhibit 19 is a true and correct copy of a Certificate of Title for a 2016 Land Rover vehicle, Title No. 120959919, VIN SALAK2V66GA792286, bearing beginning Bates GCSVB004067, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 20 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

16. Attached as Exhibit 21 is a true and correct copy of a Certificate of Title for a 2017 Mercedes vehicle, Title No. 133742999, VIN WDCYC7DFXHX267273, bearing beginning Bates GCSVB005224, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 22 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

17. Attached as Exhibit 23 is a true and correct copy of a Certificate of Title for a 2017 Polaris vehicle, Title No. 125535991, VIN 3NSRHE996HH872889, bearing beginning Bates GCSVB005240, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 24 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the

Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

18. Attached as Exhibit 25 is a true and correct copy of a Certificate of Title for a 2017 Porsche vehicle, Title No. 136140513, VIN WP0BF2A76HL187026, bearing beginning Bates GCSVB004457, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 26 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

19. Attached as Exhibit 27 is a true and correct copy of a Certificate of Title for a 1996 Triumph vehicle, Title No. 68442707, VIN SMT395DJ3TJ030774, bearing beginning Bates GCSVB005230, which identifies Canes Twelve, LLC as the registered owner. Attached as Exhibit 28 is a true and correct copy of a Vehicle Information Check, retrieved from the website of the Florida Department of Highway Safety and Motor Vehicles, which states that the Title for the above-described vehicle is active and that the vehicle has one owner.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 1, 2021.



Susanna M. Buergel